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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|---|---|---|---|
| 10/609,168 | 06/27/2003 | Peter J. McAlindon | 065250-010 | 7807 |

29391 7590 04/05/2006

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| EXAMINER | |
|---|---|
| WU, XIAO MIN | |

| ART UNIT | PAPER NUMBER |
|---|---|
| 2629 | |

DATE MAILED: 04/05/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

| Office Action Summary | Application No. | Applicant(s) | |
|---|---|---|---|
| | 10/609,168 | MCALINDON, PETER J. | |
| | Examiner | Art Unit | |
| | XIAO M. WU | 2629 | |

*-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --*

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

1)☒ Responsive to communication(s) filed on *1/17/2006*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

4)☒ Claim(s) *9,10,12-20 and 22-54* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☒ Claim(s) *9,10 and 12-20* is/are allowed.

6)☒ Claim(s) *22-54* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

**Application Papers**

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

## DETAILED ACTION

### *Double Patenting*

1. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

2. Claims 22-54 are rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-10 of U.S. Patent No. 6,756,968. Although the conflicting claims are not identical, they are not patentably distinct from each other because they claim similar subject matter as indicted below. Claim 1 is a representative claim in Patent No. 6,756,968 and claim 22 is a representative claim of the instant application. They are compared with each other in the following:

| Claim 1 of US Patent No. 6,756,968 | Claim 22 of the instant application |
|---|---|
| 1. An input apparatus comprising: | 22. An apparatus for generating a data signal, the apparatus comprising: |
| a housing; | a housing; |
| a controller moveably coupled with the housing; | at least one controller moveably coupled with the housing; |

| | |
|---|---|
| a kinematic map plate moveably coupled with the controller such that the kinematic map plate moves in response to movement of the controller; | a kinematic map plate moveable in response to movement of the at least one controller; |
| at least one impression formed in the kinematic map plate defining a plurality of keystroke-defining locations and a home location; | at least one impression formed in the kinematic map plate defining a number of directions that the at least one controller may be moved; |
| a spider mechanism that cooperatively engages the at least one impression to guide the controller for movement among the plurality of keystroke-defining locations and the home location; | a spider mechanism that cooperatively engages the at least one impression of the at least one controller to guide the at least one controller; |
| an upper director plate for guiding the controller in at least one direction; | an upper director plate for guiding the at least one controller in at least one direction; |
| an actuator armature moveable in response to movement of the controller; | an actuator armature moveable in response to movement of the at least one controller; |
| means for sensing a position of the controller operatively coupled with the actuator armature and the controller, the means for sensing a position of the controller configured to sense a movement of the controller from the home location to a first keystroke-defining location and generate a first location signal indicative of the keystroke-defining location; | means for sensing a position of the at least one controller operatively coupled with the actuator armature; |
| means for biasing the controller so that it may be depressed and released and for biasing the spider mechanism against the kinematic map plate; and | means for biasing the at least one controller so that it may be depressed and released and for biasing the spider mechanism against the kinematic map plate; and |
| a processing means configured to receive the first location signal and translate the first location signal into a keystroke signal having a unique correspondence with the first location signal. | a processing means configured to receive a signal from the means for sensing a position of the at least one controller and generate the data signal. |

From the comparison above, it is noted that claim 22 is broadening from claim 1 since claim 22 does not define the location signal is a keystroke signal. It would have been obvious to one of ordinary skill in the art to have generated a simple position data other than the keystroke data base on the movement of the controller since the movement of the controller can be detected by the position sensor and does need to be converted to a keystroke data.

***Response to Arguments***

3. Applicant's arguments with respect to claims 22-54 have been considered but are moot in view of the new ground(s) of rejection.

***Allowable Subject Matter***

4. Claims 9-10, 12-20 are allowed.

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to XIAO M. WU whose telephone number is 571-272-7761. The examiner can normally be reached on 6:30 am to 4:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, RICHARD HJERPE, can be reached on 571-272-7691. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished

applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

x.w.
March 31, 2006

**XIAO M. WU**
**Primary Examiner**
**Art Unit 2629**